



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 1 2 2015

CERTIFIED MAIL 70081830000024885288
RETURN RECEIPT REQUESTED

Mr. Marcus Schleich
Director of Maintenance
Falcon Air Express, Inc.
2601 NW 105 Avenue
Doral, Florida 33172

Re: NOTICE OF VIOLATION AND REQUEST FOR INFORMATION
Aircraft Public Water System Identification Number: AC0005621
FAA Registry No: N125MN

The U.S. Environmental Protection Agency oversees implementation of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f – 300j-26, and the Aircraft Drinking Water Rule (ADWR), 40 C.F.R. §§ 141.800 – 810. To facilitate implementation of the ADWR, the EPA has developed a centralized, web-based Aircraft Reporting and Compliance System (ARCS) for air carriers to use as an Agency approved method to submit required information in an electronic format.

Based on the EPA's review of the data submitted in ARCS by Falcon Air Express, Inc., (Falcon), there have been a number of violations for the above mentioned aircraft public water system (APWS). These violations are identified below:

<u>APWS Identification #/ FAA Registry No)</u>	<u>Monitoring Period/ Reporting Deadline</u>	<u>Violation</u>
AC0005621 (N125MN)	04/19/11	-Failure to develop/implement a complete operations and maintenance plan.
	04/01/12 – 06/30/12	-Failure to perform routine coliform sampling -Failure to report the failure to perform routine coliform sampling -Failure to perform corrective actions for failing to perform routine coliform sampling
	07/01/12 – 09/30/12	-Failure to report routine coliform sampling -Failure to report the failure to perform routine coliform sampling -Failure to perform corrective actions for failing to perform routine coliform sampling

04/01/13 – 06/30/13	-Failure to perform routine coliform sampling -Failure to report the failure to perform routine coliform sampling -Failure to perform corrective actions for failing to perform routine coliform sampling
07/01/13 – 09/30/13	-Failure to timely report routine coliform sampling
10/01/13 – 12/31/13	-Failure to perform routine coliform sampling -Failure to report the failure to perform routine coliform sampling -Failure to perform corrective actions for failing to perform routine coliform sampling
07/01/13 – 12/31/13	-Failure to timely report routine disinfection and flushing (D&F)

The above are violations of the SDWA and the ADWR as described below:

1. Pursuant to 40 C.F.R. § 141.806(b)(5), for each aircraft water system the air carrier must report to the EPA any failures to perform routine coliform sampling and/or routine D&F within 10 days of discovery.

The information entered into ARCS and reviewed by the EPA indicates that Falcon failed to report the failure to perform routine coliform sampling for the following monitoring periods: April 1, 2012 – June 30, 2012; July 1, 2012 – September 30, 2012; April 1, 2013 – June 30, 2013; October 1, 2013 – December 31, 2013. Therefore, Falcon is in violation of 40 C.F.R. § 141.806(b)(5), for failure to timely report the failure to perform routine coliform sampling.

2. Pursuant to 40 C.F.R. § 141.806(b)(3), for each aircraft water system the air carrier must report to the EPA all routine sampling results and routine D&F events within 10 days following the monitoring period of the required activity.
 - a. The information entered into ARCS and reviewed by the EPA indicates that Falcon failed to report coliform sampling results for July 01, 2013 – September 30, 2013 within 10 days of the end of the monitoring period. The results were required to be submitted by October 10, 2013, however, they weren't reported until February 24, 2014. Therefore, Falcon is in violation of 40 C.F.R. § 141.806(b)(3), for failure to timely report the routine coliform sampling results.
 - b. The information entered into ARCS and reviewed by the EPA indicates that Falcon failed to report the D&F event for July 01, 2013– December 31, 2013 within 10 days of the end of the monitoring period. The D&F event was required to be submitted by January 10, 2014, however it was not submitted until March 25, 2014. Therefore, Falcon is in violation of 40 C.F.R. § 141.806(b)(3), for failure to timely report the routine D&F event.

3. Pursuant to 40 C.F.R. § 141.803(b), for each aircraft water system the air carrier must conduct routine coliform sampling at the frequency corresponding to the frequency of routine disinfection and flushing frequency as determined by the air carrier.

According to the information entered into ARCS by the air carrier, Falcon is required to perform routine coliform sampling quarterly. The information in ARCS and reviewed by the EPA indicates that Falcon failed to perform routine coliform sampling for the following monitoring periods: April 1, 2012 – June 30, 2012; July 1, 2012 – September 30, 2012; April 1, 2013 – June 30, 2013; and October 1, 2013 – December 31, 2013. Therefore, Falcon is in violation of 40 C.F.R. § 141.803(b), for the failures to timely conduct routine coliform sampling.

4. Pursuant to 40 C.F.R. § 141.803(f), for each aircraft water system the air carrier must perform specific corrective actions when an air carrier fails to collect and analyze the required routine coliform samples.

According to the information entered into ARCS by the air carrier, Falcon is required to perform specific corrective actions for failing to perform routine coliform sampling. The information in ARCS and reviewed by the EPA indicates that Falcon failed to perform the corrective actions required for the following monitoring periods: April 1, 2012 – June 30, 2012; July 1, 2012 – September 30, 2012; April 1, 2013 – June 30, 2013; and October 1, 2013 – December 31, 2013. Therefore, Falcon is in violation of 40 C.F.R. § 141.803(f), for failing to perform the required corrective actions after failing to perform the routine coliform sampling.

5. Pursuant to 40 C.F.R. §§ 141.804(a) through 141.804(c), for each aircraft water system the air carrier must develop and implement an aircraft water system operations and maintenance (O&M) plan that includes the following: watering point selection requirement; procedures for disinfection and flushing; procedures for follow-up sampling; training requirements; procedures for conducting self-inspections of the aircraft water system; procedures for boarding water; coliform sampling plan; and an aircraft water system disconnect/shut-off or prevent flow of water through the tap(s) statement.

On June 10, 2014, the EPA conducted a compliance assistance visit with Falcon regarding the ADWR program. During this visit, the EPA determined that Falcon did not have a complete O&M plan in place for the above mentioned aircraft water system. On July 30, 2014, Falcon submitted a draft O&M plan. The EPA reviewed this plan and had several comments regarding missing information and incorrect information. These comments were submitted to Falcon on August 15, 2014. On December 15, 2014, Falcon submitted another O&M plan for review. Based on the EPA's review of this plan, it has been determined that all items have not been addressed and therefore the plan is incomplete. Please refer to **Attachment I** regarding the comments on the December 15, 2014, submittal. Therefore, Falcon is in violation of 40 C.F.R. §§ 141.804(a) through 141.804(c), for failure to have a complete O&M plan in place.

6. Pursuant to 40 C.F.R. § 141.810(a), an aircraft is in violation of the ADWR when for any aircraft water system it fails to perform any of the requirements in accordance with § 141.803 or § 141.804. As discussed above Falcon violated 40 C.F.R. § 141.803 and therefore is also in violation of 40 C.F.R. § 141.810(a).
7. Pursuant to 40 C.F.R. § 141.810(d), an aircraft is in violation of the ADWR when for any aircraft water system it fails to comply with the reporting and recordkeeping requirements in accordance with 40 C.F.R. §§ 141.800 – 810. As discussed above Falcon violated 40 C.F.R. § 141.806(b)(3) and therefore is also in violation of 40 C.F.R. § 141.810(d).

SDWA Section 1414, 42 U.S.C. § 300g-3, authorizes the EPA to take formal enforcement action against public water systems for violations of the national primary drinking water regulations, including ADWR. Therefore, within ten (10) days of receipt of this Notice of Violation, you or your representative must contact this office to arrange a meeting to show cause why the EPA should not initiate legal proceedings. In lieu of appearing in the EPA's offices for this meeting, a telephone conference may be scheduled. You or your representative should be prepared to provide all relevant information with documentation pertaining to the above violations. EPA's legal counsel may be present at this meeting. You also have the right to have your legal counsel present.

To arrange the particulars of this meeting or to arrange for a telephone conference, please contact Ms. Amanda Driskell, at (404) 562-9735 or driskell.amanda@epa.gov. If you fail to attend the scheduled meeting/telephone conference or to contact Ms. Driskell prior to the meeting/conference date, the EPA may proceed with formal enforcement against you without further notice.

Please be advised that any information provided may be used by the EPA in any administrative, civil, or criminal proceedings related to this or other matters. Enclosed is a document entitled *U.S. EPA Small Business Resources-Information Sheet* for your use and to assist you in understanding the compliance assistance resources and tools available to you.

If you have any questions or concerns, please contact Ms. Driskell, of my staff at the telephone number or email address above. Any legal inquiries should be directed to Ms. Wilda Cobb, Associate Regional Counsel, at (404) 562-9530 or cobb.wilda@epa.gov.

Sincerely,



James D. Giattina
Director

Water Protection Division

Enclosure

cc: Mr. Antonio Deleon
Interim Director of Quality, Falcon Air Express, Inc.

Mr. William Kline
Director of Operations, Falcon Air Express, Inc.

Comments on the Falcon Air Express General Maintenance Manual
(04/21/15)

Page 1

1. Aircraft Potable Water Maintenance Program
 - a. All EPA citations begin with 40 CFR not 14. Correct all of the EPA rule citations on pages 1 – 11.
 - b. Add 40 CFR 141.809

The comments above were addressed in the revised General Maintenance Manual.

Page 2 3

1. CAUTION: refers to the annual coliform samples however, you have chosen a quarterly sampling schedule. What is the annual coliform sample?

Page 3 4

1. Is chlorine dioxide the only disinfectant that you use?
2. Under F., what does CCCC mean? **This was removed in the revision.**
3. **Under D. It is stated that the D&F frequency is three times per year however, on Page 3, under C.1.a., it states that the D&F frequency is a minimum of once every six months. Please determine your D&F frequency and state as appropriate.**
4. Under F., please re-write this section to include the requirement to test for E. coli in the event of a routine TC+ sample.
5. In an attempt to truncate this section (F), many requirements have been omitted.
6. Please review this section (F) closely and include all necessary requirement.
7. **Provide a copy of the MD80 AMM 38-11-00 as referenced under D. 1.**

Page 5

1. Under G.1., include the FDA regulations (21 CFR part 1240, subpart E).-

Page 7 9

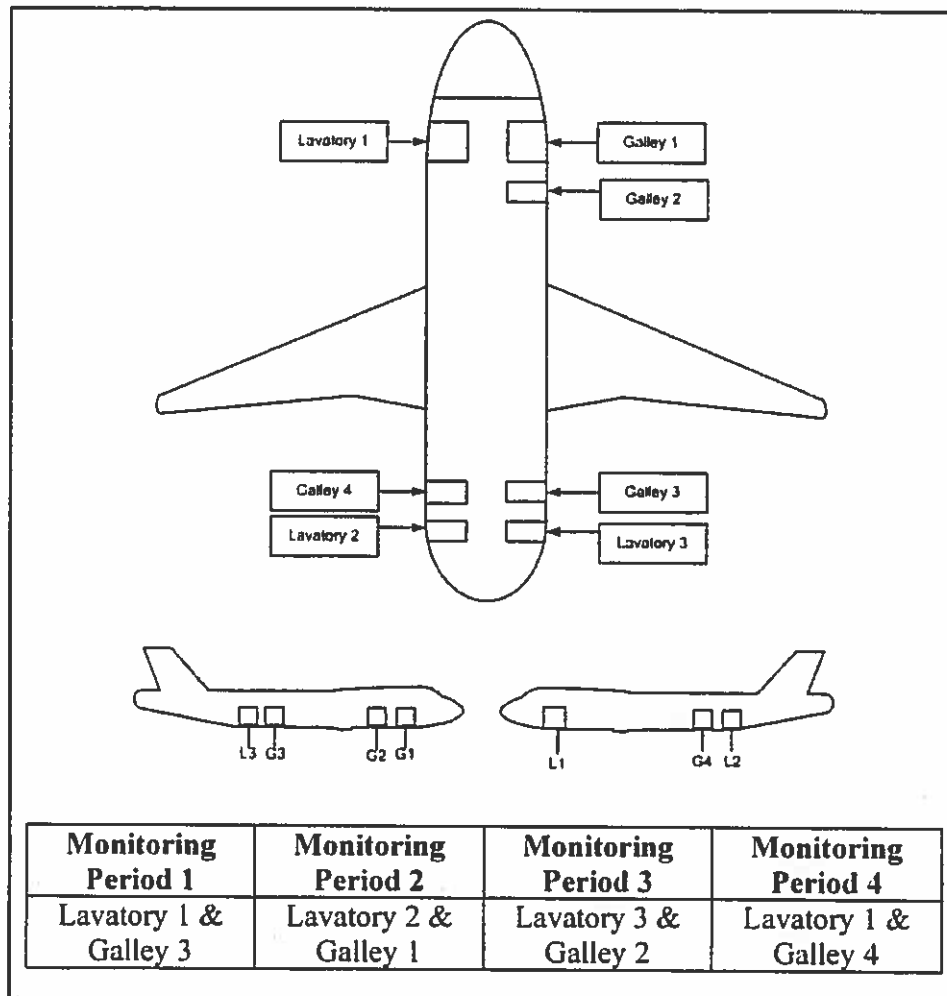
1. Self Inspection Program
 - a. Include 40 CFR 141.806(d)

Page 8 10

1. Reporting Requirements
 - a. Under J.2. What is CI? **This was removed in the revision.**
 - b. Under J.3.a. Correct my phone number. It is 404-562-9480 and include the EPA R4 ADWR email box, adwr-r4@epa.gov. **This was corrected in the revision.**
 - c. Under J.4.b. Delete the second item #2, it is listed twice.

Include a sampling plan as found in the EPA Guidance Manual for the Aircraft Drinking Water Rule (ADWR) – Interim Final, page 32, Exhibit 4.1. Example Sample Locations. (see attachment).

Exhibit 4.1 Example Sample Locations



4.2.3 Frequency and Number of Routine Coliform Samples to Be Collected

Including the required frequency and number of samples to be collected in the coliform sampling plan helps ensure personnel responsible for this task will collect the correct number of samples during the required monitoring period. The number of routine coliform samples that must be collected is discussed in Section 4.1. The frequency of sample collection can be either monthly, quarterly, semi-annually, or annually. It is determined by the routine disinfection and flushing frequency recommended by the manufacturer of the aircraft water system. If the manufacturer does not recommend a frequency, the air carrier must choose a frequency and a corresponding routine coliform sampling frequency as specified in the ADWR [40 CFR 141.804(b)(2)(iii)] and displayed in Exhibit 4.2. Exhibit 4.2 shows monitoring frequencies that correspond to a given disinfection and flushing frequency [40 CFR 141.803(b)(3)]. Additional voluntary coliform sampling is encouraged by EPA.

